

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

SAUL E. GREENHUT
Junior Party
(Patent No. 5,964,788),

v.

ALEXIS C. M. RENIRIE, and **VINCENT J. A. SCHOUTEN**
Senior Party
(Application No. 09/494,531).

Patent Interference No. 105,888 (JL)
(Technology Center 3700)

DECLARATION – Bd. R. 203(b)¹

Part A. Declaration of Interference

An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties. Details of the application, patent, count(s) and claims designated as corresponding or as not corresponding to the count(s) appear in Parts E and F of this DECLARATION.

¹ “Bd. R. x” may be used as shorthand for “37 C.F.R. § 41.x”. 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

1 **Part B. Judge managing the interference**

2 Administrative Patent Judge Jameson Lee has been designated to manage
3 the interference. Bd. R. 104(a).

4 **Part C. Standing order**

5 A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this
6 DECLARATION. The STANDING ORDER applies to this interference.

7 **Part D. Initial conference call**

8 A telephone conference call to discuss the interference is set for **2:00 p.m.**
9 **on June 12, 2012** (the Board will initiate the call).

10 No later than **four business days** prior to the conference call, each party
11 shall file and serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd.R. 120; Bd.R. 204;
12 SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

13 A sample schedule for taking action during the motion phase appears as
14 Form 2 in the STANDING ORDER. Counsel are encouraged to discuss the
15 schedule prior to the conference call and to agree on dates for taking action. A
16 typical motion period lasts approximately eight (8) months. Counsel should be
17 prepared to justify any request for a shorter or longer period.

Part E. Identification and order of the parties

Junior Party

Named Inventors: Saul E. Greenhut, Aurora, Colorado

Involved Patent: 5,964,788, issued October 12, 1999, based on
Application 08/959,391, filed October 28, 1997

Title: Method and apparatus for controlling a pacemaker
using respiration

Assignee: Pacesetter, Inc.

Senior Party

Named Inventors: Alexis C. M. Renirie of Berg en Dal, and
Vincent J. A. Schouten of Cadier en Keer, all of
the Netherlands

Involved Application: 09/494,531, filed January 31, 2000

Title: System and method for respiration-modulated
pacing

Assignee: Medtronic, Inc.

The senior party is assigned exhibit numbers 1001-1999. The junior party is
assigned exhibit numbers 2001-2999. Bd.R. 154(c)(1); SO ¶ 154.2.1. The senior
party is responsible for initiating settlement discussions. SO ¶ 126.1.

Part F. Count and claims of the parties

Count 1

Claim 31 of Renirie's Application or Claim 10 Greenhut's Patent

The claims of the parties are:

Greenhut: 1-46

Renirie: 1, 2, 5, 9, 15, 18, 26, 29, 31 and 32

The claims of the parties which correspond to Count 1 are:

Greenhut: 10, 12, 13, 36, 40, 41 and 42

Renirie: 1, 2, 5, 9, 15, 18, 26, 29, 31 and 32

The claims of the parties which do not correspond to Count 1 are:

Greenhut: 1-9, 11, 14-35, 37-39, 43-46

Renirie: none

The parties are accorded the following benefit for Count 1:

Greenhut: none

Renirie: Application 08/937,443, filed September 25, 1997, now Patent 6,141,590, issued October 31, 2000

Part G. Heading to be used on papers

The following heading must be used on all papers filed in this interference,
see SO ¶ 106.1.1:

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V.

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Part H. Order form for requesting file copies

When requesting copies of files, use of SO Form 4 will greatly expedite processing of the request. Please attach a copy of Parts E and F of this DECLARATION with a hand-drawn circle around the patents and applications for which a copy of a file wrapper is requested.

/Jameson Lee/
Administrative Patent Judge

Enc:

Copy of STANDING ORDER (March 2011)
Copy of claims of Application 09/494,531
Copy of Patent 5,964,788

cc (via overnight delivery):

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